

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF WASHINGTON
AT SEATTLE

ALLAH,

Petitioner,

v.

DOUG WADDINGTON,

Respondent.

CASE NO. C05-434RSL

REPORT AND RECOMMENDATION

This is a federal habeas action which was initiated by petitioner in March 2005 with the filing of a series of documents which appeared to present a challenge to petitioner's King County Superior Court convictions on drug and firearms charges. This Court reviewed the documents and found that they did not clearly provide all of the information required by the Court's prescribed forms nor did they clearly identify the claims petitioner intended to raise in these proceedings. Thus, on April 27, 2005, this Court issued an Order directing petitioner to file a § 2254 petition on the forms provided by the Clerk and reminding petitioner that state remedies must first be exhausted as to all issues raised in a federal habeas petition.

On May 13, 2005, petitioner filed a § 2254 petition on the forms provided by the Clerk. While the form petition submitted by petitioner clarifies the grounds upon which he seeks relief in these

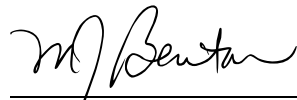
REPORT AND RECOMMENDATION

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1 proceedings, it also makes clear that petitioner has not properly exhausted any of his grounds for
2 federal habeas relief by presenting those claims to the highest state court for review. Petitioner's
3 explanation for his failure to present his claims to the highest state court for review is that the state
4 court lacked jurisdiction because petitioner "is not a 14th Amendment UNITED STATES CITIZEN."

5 Petitioner's explanation does not excuse his obvious failure to exhaust his state court remedies
6 with respect to the claims presented in his federal habeas petition. Until the Supreme Court of
7 Washington has the opportunity to consider the merits of petitioner's federal habeas claims, any
8 federal habeas petition is premature. *See Batchelor v. Cupp*, 693 F.2d 859, 863 (9th Cir. 1982), *cert.*
9 *denied*, 463 U.S. 1212 (1983). Accordingly, this Court recommends that petitioner's federal habeas
10 petition be dismissed, without prejudice, for failure to exhaust his state court remedies. A proposed
11 order accompanies this Report and Recommendation.

12 DATED this 15th day of June, 2005.

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15 MONICA J. BENTON
16 United States Magistrate Judge
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